

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FEDERAL CARBIDE COMPANY,	)	Case No. 3:15-cv-248
	)	
Plaintiff,	)	JUDGE KIM R. GIBSON
	)	
v.	)	
	)	
EXETER CONSTRUCTION, LLC and	)	
DENNIS B. BALLARD,	)	
	)	
Defendants.	)	

**ORDER**

On October 6, 2016, this Court granted Plaintiff's Motion to Compel Discovery Responses. (ECF No. 35.) The Court's Order stated that, pursuant to Federal Rule of Civil Procedure 37(a)(5)(A), Defendants shall pay the expenses Plaintiff incurred in bringing its Motion to Compel. (*Id.*) On October 26, 2016, Plaintiff filed an Affidavit in Support of Amount of Attorneys' Fees setting forth the expenses related to Plaintiffs' Motion to Compel. (ECF No. 37.)

Rule 37(a)(5)(A) states that if a court grants a motion to compel discovery, "the court must, after giving an opportunity to be heard, require the party . . . whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." If Defendants wanted to contest Plaintiff's request for attorneys' fees, Defendants had an opportunity to do so by filing a response to Plaintiff's Motion to Compel or the subsequent Affidavit. But Defendants filed no response to Plaintiff's Motion to Compel or to Plaintiff's Affidavit. In fact, Plaintiff asserts—in a currently pending Motion for Sanctions (ECF No. 38)—that Defendants have yet to comply with the Court's Order compelling discovery.

**WHEREFORE NOW**, this 22nd day of November 2016, upon consideration of Federal Rule of Civil Procedure 37(a)(5)(A), Plaintiff's Affidavit in Support of Amount of Attorneys' Fees (ECF No. 37,) and in light of the Court's Order granting Plaintiff's Motion to Compel (ECF No. 35), as well as the Court finding that Defendants had an opportunity to respond but failed to do so, the Court **HEREBY ORDERS** Defendants to pay Plaintiff's expenses related to bringing its Motion to Compel. Defendants shall pay Plaintiff **\$2,353.50 within 14 days**.

**BY THE COURT:**

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

**KIM R. GIBSON**  
**UNITED STATES DISTRICT JUDGE**